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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/943,910	08/31/2001	J. Stuart Cumming	HO-P02089US1	2364
26271	7590	06/13/2005	EXAMINER	
FULBRIGHT & JAWORSKI, LLP			PRONE, CHRISTOPHER D	
1301 MCKINNEY			ART UNIT	PAPER NUMBER
SUITE 5100				
HOUSTON, TX 77010-3095			3738	

DATE MAILED: 06/13/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	09/943,910	CUMMING, J. STUART	
	<b>Examiner</b>	<b>Art Unit</b>	
	Christopher D. Prone	3738	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 18 April 2005.
- 2a) This action is FINAL.                    2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1,2,5-14 and 16-33 is/are pending in the application.
- 4a) Of the above claim(s) 1,2,5-8,16,18-20,23,24,28 and 29 is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 9-14,17,21,22,25-27 and 30-33 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) All    b) Some \* c) None of:
    1. Certified copies of the priority documents have been received.
    2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)	4) <input type="checkbox"/> Interview Summary (PTO-413)
2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)	Paper No(s)/Mail Date: _____
3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date: _____	5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)
	6) <input type="checkbox"/> Other: _____

### **DETAILED ACTION**

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 4/18/05 has been entered.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 9-14, 17, 21, 22, 25-27 and 30-33 are rejected under 35 U.S.C. 103(a) as being unpatentable over Klaas (UPSN 5,522, 891) in view of Schlegel (USPN 4,673,406).

With reference to Figures 14 and 15 Klaas discloses an intraocular lens comprising a single optic 4 having anterior and posterior sides and multiple plate haptics 14 extending from the edge of the optic 4. The haptics 14 have a thinner portion 19 adjacent the optic that enables the optic to move anteriorly and posteriorly (4:62-67). In Figure 15 the lateral edges of haptics 14 are parallel to one another. Klaas discloses

the intraocular lens as claimed however Klaas fails to discloses protuberances extending from a surface of the haptic.

With reference to Figures 8, 11, and 12, Schlegel teaches an intraocular lens comprising an optic 11, two haptic members 14, each having two protuberances 15 separated by a notch 16, that extend anteriorly, posteriorly, and laterally away from haptics 14 to aid stable fixation of the intraocular lens and prevent rotation within the eye (2:52-63).

Therefore in view of the teachings it would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified the intraocular lens disclosed by Klaas by adding the extending protuberances as taught by Schlegel in order to provide increased fixation of the intraocular lens within the eye.

Applicant's newly added claims 30-33 are also disclosed by Klaas in view of Schlegel. The extending haptics have four fixation points that are composed of the protuberances located on the distal end of the haptics. The two protuberances per haptic are separated by a notch therefore forming a total of 4 points of contact.

### ***Response to Arguments***

Applicant's arguments filed 4/18/05 have been fully considered but they are not persuasive. Applicant stated the relationship between claims and each species, however he did not present any arguments as to the status of the claims.

Applicant's arguments filed 1/18/05 have been fully considered but they are not persuasive. Applicant argues that the examiner does not fully understand the invention of Klaas and that a modification of Klaas does not reject the preset claims. The examiner would like to direct the applicant to (1:60-61) and figures 14-15, wherein Klaas discloses a lens with haptics that meets all the claimed structural requirements of current application. Klaas even discloses that his lens "can be attached using a standard haptic system in the natural capsule bag of the eye."

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Christopher D. Prone whose telephone number is (571) 272-6085. The examiner can normally be reached on Monday Through Fri 8:30 to 5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Corrine McDermott can be reached on (571) 272-4754. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Christopher D Prone  
Examiner  
Art Unit 3738

*W*

CDP



CORRINE McDERMOTT  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 3700